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BROCADE COMMUNICATIONS
8 SYSTEMS, INC.

9
10 UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION
12

13 IN RE BROCADE COMMUNICATIONS)
14 SYSTEMS, INC. DERIVATIVE LITIGATION.)

15 This Document Relates to:)
16)
17 ALL ACTIONS)
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CASE NO.: C05-02233 CRB

**STIPULATION AND ~~PROPOSED~~
ORDER REGARDING HEARING
DATE AND BRIEFING SCHEDULE
FOR DEFENDANTS' INTENDED
MOTION FOR A PROTECTIVE
ORDER**

1 WHEREAS, pursuant to the Court's September 15, 2005 Order regarding scheduling, the
 2 parties participated in a meet and confer regarding initial disclosures and a discovery plan on
 3 October 27, 2005;

4 WHEREAS, at that meet and confer, defendants objected to any discovery, including
 5 initial disclosures, on the grounds that such discovery is premature until the Court rules on
 6 defendants' pending motion to dismiss the complaint for failure to make pre-suit demand, a
 7 position plaintiffs disagree with;

8 WHEREAS, defendants expressed their intent to seek a protective order regarding any
 9 discovery, including initial disclosures, prior to the Court's ruling on the pending motion;

10 WHEREAS, the parties have met and conferred regarding a briefing schedule for
 11 defendants' motion for a protective order, with intention of correlating the hearing date on
 12 defendants' motion for a protective order with the hearing on defendants' motion to dismiss;

13 WHEREAS, the parties have agreed to re-convene the initial meet and confer regarding a
 14 discovery plan should this case progress past the motion to dismiss;

15 WHEREAS, the parties have agreed that this meet and confer will re-convene after the
 16 briefing on the motion for a protective order is complete, but no later than January 6, 2006;

17 WHEREAS, the parties plan to submit a written report to the Court regarding a discovery
 18 plan should this case progress past the motion to dismiss, pursuant to the requirements of Federal
 19 Rule of Civil Procedure 26(f);

20 IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned,
 21 subject to approval of the Court:

22 1. The briefing schedule and hearing date for defendants' motion for a protective
 23 order will be:

24 Defendants' Motion(s) Due	November 18, 2005
25 Plaintiff's Opposition Due	December 2, 2005
26 Defendants' Reply(s) Due	December 16, 2005
27 Hearing	January 6, 2006, at 10:00 a.m.

2. The parties will re-convene their meet and confer regarding a discovery plan should this case progress past the motion to dismiss, after the briefing on the motion for a protective order has been completed, but no later than January 6, 2006.

Dated: November 10, 2005

PROSKAUER ROSE LLP

/s/Jack DiCanio

Jack DiCanio
Attorneys for Defendant Gregory L. Reyes

Dated: November 10, 2005

WILSON SONSINI GOODRICH & ROSATI, P.C.

/s/Cameron P. Hoffman

Cameron P. Hoffman
Attorneys for all other Defendants

Dated: November 10, 2005

FEDERMAN & SHERWOOD

/s/ William B. Federman

William B. Federman
Attorneys for Plaintiffs

[~~PROPOSED~~] ORDER

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned,
subject to approval of the Court:

1. The briefing schedule and hearing date for defendants' motion for a protective order shall be:

Defendants' Motion(s) Due	November 18, 2005
Plaintiff's Opposition Due	December 2, 2005
Defendants' Reply(s) Due	December 16, 2005
Hearing	January 6, 2006, at 10:00 a.m.

2. The parties shall re-convene their meet and confer regarding a discovery plan should this case progress past the motion to dismiss, after the briefing on the motion for a protective order has been completed, but no later than January 6, 2006.

IT IS SO ORDERED.

Dated: November 15, 2005

